

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10496 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
SALIM MAHMAD ALLA-BELI KUNJADA

Versus

DISTRICT MAGISTRATE  
-----

Appearance:

MS DR KACHHAVAH for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3  
-----

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 23rd October, 1998, made by the District Magistrate, Bharuch under the powers conferred upon him

under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a bootlegger and two offences have been registered against him under the Bombay Prohibition Act. In both the said offences, sizeable quantity of country liquor was recovered from the possession of the petitioner. The first of the offence was registered on 8th September, 1997 and the latter was registered on 18th June, 1998. Thereafter, some statements of witnesses were recorded on 21st September, 1998, 23rd September, 1998 and 25th September, 1998 and the order has been made a month thereafter i.e., on 23rd October, 1998. In the counter-affidavit, the aforesaid delay has been explained by saying that after the statements were recorded, some further statement had to be collected, and thereafter, the impugned order has been made. The answer is as vague as the vagueness can be. Besides, there is no evidence on record which can be said to have been collected, after the aforesaid statements of witnesses were recorded. In the circumstances, explanation given by the detaining authority cannot be said to be adequate. In view of the prevailing judicial pronouncements, such unexplained delay shall vitiate the order of detention.

4. Petition is, therefore, allowed. The impugned order dated 23rd October, 1998 is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

\*\*\*\*

Prakash\*